



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[EPA-R09-OAR-2022-0623; FRL-10031-01-R9]

Clean Air Act Operating Permit Program; California; San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of revisions to the Clean Air Act (CAA or “Act”) Operating Permit Program (title V) of the San Diego County Air Pollution Control District (SDCAPCD or “District”) in California. Once approved by the EPA, these program revisions will modify the major source title V potential to emit (PTE) thresholds to conform with the recent reclassification of the San Diego County ozone nonattainment area to “Severe” for the 2008 and 2015 ozone National Ambient Air Quality Standards (NAAQS). We are taking comments on these proposed revisions and publish our final action approving these revisions elsewhere in this issue of the *Federal Register* in a direct final rule.

DATES: Comments must be received on or before [Insert date 30 days after date of publication in the *Federal Register*].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2022-0623 at <https://www.regulations.gov>. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is

considered the official comment and should include discussion of all points you wish to make.

The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: La Weeda Ward, Permits Office (Air-3-1), U.S. Environmental Protection Agency, Region IX, (213) 244-1812, ward.laweeda@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA. This proposal addresses the following local rule: SDCAPCD Rule 1401, “Title V Operating Permits—General Provisions.” In the Final Rules section of this *Federal Register*, the EPA is approving the District’s submissions and making administrative updates as a direct final rule without prior proposal because we view this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the action is set forth in the preamble to the direct final rule. If the EPA receives no adverse comments, the EPA contemplates no further action. If the EPA receives adverse comments, the EPA will withdraw the direct final rule and will address all public comments in a subsequent final rule based on this proposed rule. We do not plan to open a second comment period on this action, so anyone interested in commenting should do so at this time. Please note that if the EPA receives an adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule of the same

title that is located in the Final Rules section of this ***Federal Register***.

TABLE OF CONTENTS

- I. Background
- II. What are the Requirements for Approval of Revisions to Title V Programs?
- III. What is the State’s Proposed Title V Program Revision?

I. Background

The CAA Amendments of 1990 include title V, which requires states to develop an operating permits program that meets the Federal criteria codified in title 40 of the Code of Federal Regulations (CFR) part 70. The title V program requires certain sources of air pollution to obtain Federal operating permits from their respective states. These Federal operating permits improve enforcement and compliance by consolidating all applicable Federal requirements into one federally enforceable document. Before a state can issue permits under 40 CFR part 70 (which are referred to as “title V permits”), the EPA must approve its programs as amendments to appendix A of 40 CFR part 70. States may submit revisions to their approved programs for EPA approval.

Title V of the CAA applies to “major stationary sources” as defined in title I, part D of the Act. The regulations at 40 CFR 70.2 and 40 CFR 51.165(a)(1)(iv)(A) base the definition of “major stationary source” on the nonattainment classification of the area where the source is located. Table 1 shows the attainment/non-attainment/unclassifiable status for the applicable NAAQS within the District’s jurisdictional boundary. As shown in Table 1, SDCAPCD’s jurisdiction is classified as Severe-15 nonattainment for the 2008 and 2015 8-hour ozone NAAQS.¹ The area is designated attainment/unclassifiable for all other NAAQS. See 40 CFR 81.305.

TABLE 1 – AIR QUALITY ATTAINMENT STATUS

¹ The EPA reclassified the San Diego region to a Severe ozone nonattainment area, effective July 2, 2021. This reclassification to Severe means that a major stationary source is now defined as a source emitting 25 tons or more per year of either oxides of nitrogen or volatile organic compounds. 86 FR 29522 (June 2, 2021).

NAAQS Pollutant/Standards	San Diego County (NA=Non-attainment/Classification, A=Attainment, M = Maintenance, U=Unclassified)
Ozone 2008 8-Hour	NA, Severe-15
Ozone 2015 8-Hour	NA, Severe-15
Nitrogen dioxide (NO ₂)	A/U
PM _{2.5} 2012 24-Hour	A/U
PM ₁₀ 1987 24-Hour	A/U
Sulfur dioxide (SO ₂) 2010 Standards	A/U
Carbon monoxide 1971 Standards	A/U
Lead (pb) 2008 Standards	A/U

The emission thresholds above which a title V operating permit is required pursuant to 40 CFR 70.3(a) and 40 CFR 51.165(a)(1)(iv)(A)(1) and (2) are shown in Table 2.

TABLE 2 – TITLE V EMISSIONS THRESHOLDS^a

Non-Attainment Designation/Classification	VOC or NO _x (tpy)	CO (tpy)	PM ₁₀ (tpy)
Marginal	100	100	100
Moderate	100	100	100
Serious	50	50	70
Ozone transport region (other than Severe or Extreme)	50		
Severe	25		
Extreme	10		

^a 40 CFR 51.165(a)(1)(iv)(A).

II. What are the Requirements for Approval of Revisions to Title V Programs?

Pursuant to 40 CFR 70.4(i), either the EPA or the state may initiate a title V program revision “when the relevant Federal or State statutes or regulations are modified or supplemented.” It is the responsibility of the state to keep the EPA apprised of any proposed modifications to its basic statutory or regulatory authority or procedures. Revision of a state program shall be accomplished as follows:

- a) The state submits a modified program description, attorney general's statement (if necessary for expanded or additional authority), or other documents as the EPA determines to be necessary. 40 CFR 70.4(i)(2)(i).

- b) After the EPA receives a proposed program revision, it will publish a notice of the proposed change in the ***Federal Register*** and provide for a public comment period of at least 30 days. 40 CFR 70.4(i)(2)(ii).
- c) The Administrator shall approve or disapprove program revisions based on the requirements of 40 CFR part 70 and the Act. 40 CFR 70.4(i)(2)(iii).
- d) The EPA must publish a notice of approval in the ***Federal Register*** for any substantial program revisions. 40 CFR 70.4(i)(2)(iv).
- e) Approval of nonsubstantial revisions may be given by a letter from the Administrator to the Governor or a designee. 40 CFR 70.4(i)(2)(iv).
- f) A program revision shall become effective upon the approval of the Administrator. 40 CFR 70.4(i)(2)(iv).

III. What is the State’s Proposed Title V Program Revision?

Table 3 lists the rules submitted as part of the SDCAPCD’s title V program revisions and the dates they were adopted by the District and submitted by the California Air Resources Board (CARB), which is the Governor’s designee for California rule submittals.²

TABLE 3 - SUBMITTED RULES

Rule Number	Rule Title	Amended Date	Submitted Date ^a
1401	Title V Operating Permits – General Provisions	10/14/2021	1/24/2022

^a CARB transmitted the submittal to the EPA by a letter dated January 20, 2022.

SDCAPCD revised the definition of “complete application” in Rule 1401 to incorporate Rule 1418,³ “Action on Applications,” Section (a): Completeness Determination, by reference.

² Rule 1401 was amended to revise the definitions of “complete application” and “major stationary source.” A detailed explanation of the EPA’s evaluation of these proposed revisions as well as a change copy of the revised rule can be found in the Technical Support Document (TSD) and docket.

³ All references to SDCAPCD Rule 1418 refer to the current EPA-approved version of this rule. 68 FR 74871 (December 29, 2003). Any future changes to Rule 1418 that amend Section (a) of this rule will necessitate a conforming amendment to Rule 1401 and a subsequent title V program revision.

Additionally, SDCAPCD revised the definition of a major stationary source in Rule 1401, Section (c)(26), to incorporate Rule 20.1,⁴ “New Source Review-General Provisions,” Section (c)(30), “Federal Major Stationary Source” by reference. Rule 20.1 contains the definition of a “Federal Major Stationary Source” pursuant to 40 CFR 70.2, Definitions, “Major source.”

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: **December 14, 2022.**

Martha Guzman Aceves,
Regional Administrator,
Region IX.

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⁴ All references to SDCAPCD Rule 20.1 refer to the current SIP-approved version of this rule. 87 FR 58729 (September 28, 2022). A correction to this final rule was published on October 27, 2022 (87 FR 65015). Any future changes to Rule 20.1 that amend Table 20.1-5b of this rule will necessitate a conforming amendment to Rule 1401 and a subsequent title V program revision.